

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Robert Santy 7000 Manchester Road, Apt 1A Canal Fulton, Ohio 44614  Plaintiff,  vs.	CASE NO:  JUDGE:
United States of America United States Post Office General Law Service Center USPS National Tort Center 1720 Market St., Room 2400 St. Louis, MI 63155-9948  And  Erie Insurance Company 100 Erie Insurance Place Erie, PA 16530  Defendants.	<b><u>COMPLAINT</u></b>  JURY DEMAND ENDORSED HEREON

Now comes the Plaintiff, Robert Santy, and for his claims against Defendants, states as follows:

**FIRST CLAIM – PRELIMINARY ALLEGATIONS**

1. Plaintiff, Robert Santy, was a resident of Stark County, Ohio on the August 26, 2021 date of the motor vehicle accident which is the basis of his action.
2. While in the course and scope of her employment with the United States Postal Service, Lisa A. Jones was involved in the accident of August 26, 2021 which is the basis of Plaintiff's action. Pursuant to 28 USC § 2679, Plaintiff's exclusive remedy

against Lisa A. Jones for her negligence is to proceed in Federal Court against the United States of America.

3. Pursuant to 28 USC § 2675, Plaintiff submitted a claim on or about February 8, 2022, to the USPS – Tort Claims Department, Attn: Denita McCoy, 2200 Orange Ave., Room 212, Cleveland, Ohio 44101 and by email to [denita.mccoy@usps.gov](mailto:denita.mccoy@usps.gov) (Exhibit 1).
4. On April 5, 2022, a USPS tort representative acknowledged receipt of Plaintiff's demand package and established an adjudication deadline of August 14, 2022. (Exhibit 2, April 5, 2022 2:51 PM).
5. On August 16, 2022 and August 29, 2022, Plaintiff, by and through his counsel, sent emails requesting status of adjudication of Plaintiff's claim. (Exhibit 2, August 16, 2022 12:09 PM and August 29, 2022 12:35 PM).
6. There has been no response regarding adjudication of Plaintiff's claim from either the USPS National Tort Center or the United States Postal Service Postmaster as of the date of Plaintiff's filing of this action.
7. Pursuant to 28 U.S.C. 2675(a), an action shall not be instituted upon a claim against the United States for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee. . . unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section.

8. The failure of the USPS to adjudicate Plaintiff's claim by the August 14, 2022 adjudication deadline entitles Plaintiff to file this action.
9. Original jurisdiction is granted to this Court pursuant to 28 USC §1346.

**SECOND CLAIM – NEGLIGENCE**

10. Plaintiff incorporates herein all prior allegations as if fully re-written.
11. On or about August 26, 2021, Plaintiff Robert Santy was travelling south on North Summit Street near or at its intersection with Glenn Street in Barberton, Summit County, Ohio when Lisa A. Jones, who at all relevant times was an employee of the United States Postal Service and who was in the course and scope of her employment, was traveling west on Glenn Street and Lisa A. Jones negligently entered the intersection of North Summit Street and Glenn Street directly and proximately causing a collision between the USPS vehicle that she operated and Plaintiff's vehicle.
12. The United States Postal Service, as the employer of Lisa A. Jones, is vicariously liable for Lisa A. Jones' negligence due to the operation of the doctrine of Respondeat Superior.
13. As a proximate result of Lisa A. Jones' negligence for which the United States and/or the United States Postal Service is/are vicariously liable, Plaintiff Robert Santy suffered injuries to his respective body and mind, causing inconvenience, physical, mental and emotional pain and suffering, among other noneconomic damages, and will continue to suffer said injuries and damages into the future and upon a permanent basis.

14. As a further result, the Plaintiff, Robert Santy, incurred medical and hospital expenses and other economic damages and losses and he expects to incur such expenses, damages and losses in the future.
15. As a further result, Plaintiff has incurred lost income and will suffer future loss of income and has incurred a loss of earning capacity.
16. As a further result, Plaintiff has suffered damage to the vehicle, and has incurred towing, storage, and rental car costs.

**THIRD CLAIM – UM/UIM**

17. Plaintiff realleges all paragraphs above as though fully rewritten herein.
18. At all relevant times herein, the Plaintiff, Robert Santy, was insured for purposes of medical payments ("medpay") and uninsured/underinsured motorist ("UM/UIM") coverage afforded under one or more motor vehicle insurance policies issued by the Defendant Erie Insurance Company.
19. Said policies are not attached hereto by reason of their bulk, but copies of said policies are in the possession of Defendant Erie Insurance Company.
20. Plaintiff, Robert Santy, is entitled to medpay and/or to UM/UIM coverage under the policies' insuring agreements, has satisfied all conditions to coverage, and is not precluded from coverage by reason of the policies' exclusions.
21. Plaintiff is entitled to a declaration that he is entitled, as applicable, to medpay and/or UM/UIM coverage under the policies up to limits for each coverage.
22. Additionally, upon information and belief, Defendant Erie Insurance Company claims or may claim a contractual right of reimbursement/subrogation by reason of payment or future payment of medpay and/or UM/UIM coverage by reason of this action, and

thus, is joined as a party to this action to protect any alleged subrogation or similar interests.

23. As it relates to any alleged subrogation interest of Defendant Erie Insurance Company, that interest must be reduced in accordance with R.C. §2323.44, and Plaintiff, Robert Santy, seeks a declaration as to the subrogation rights of the parties pursuant to R.C. §2323.44.

Wherefore, Plaintiff Robert Santy, prays for a judgment against the Defendants as follows:

- a. Compensatory damages for Plaintiff in the amount of Thirty Thousand Dollars (\$30,000.00), plus costs incurred in this action plus interest and attorney's fees;
- b. a declaration that Plaintiff is insured for purposes of medpay and UM/UIM coverages afforded under the motor vehicle insurance policies issued by Defendant Erie Insurance Company, that Plaintiff is entitled to recover the damages sustained as a result of the accident within the policies' insuring agreements for medpay and UM/UIM coverage, that Plaintiff has satisfied all coverage conditions, and that the policies' exclusions do not preclude coverage;
- c. a declaration that Defendant Erie Insurance Company is not entitled to reimbursement/subrogation unless and until Plaintiff is made whole and Plaintiff's litigation fees and expenses are deducted from any recovery;
- d. a declaration as to the subrogation rights of the parties pursuant to R.C. §2323.44; and,
- e. Any such other relief to which Plaintiff may show himself entitled.

From: McCoy, Denita - Cleveland, OH <Denita.Mccoy@usps.gov>  
Sent: Tuesday, February 8, 2022 10:04 AM  
To: Dawn S. Urban <durban@knrlegal.com>  
Subject: RE: [EXTERNAL] Claim No. 440-21-00522452A

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.  
For future reference you will need to mail you Demand Letter and Demand Package to me per the Postal Law Department.

Thanks,

Denita McCoy

From: Dawn S. Urban <durban@knrlegal.com>  
Sent: Tuesday, February 8, 2022 8:40 AM  
To: McCoy, Denita - Cleveland, OH <Denita.Mccoy@usps.gov>  
Subject: [EXTERNAL] Claim No. 440-21-00522452A

CAUTION: This email originated from outside USPS. STOP and CONSIDER before responding, clicking on links, or opening attachments.

Please find the following attached for our client Robert Santy:

1. Demand Letter
2. Demand Package

Thank you.

Dawn S. Urban | Senior Paralegal III  
Kisling, Nestico & Redick, LLC  
1111 Superior Ave., Suite 520, Cleveland, OH 44114  
Main: 216-658-1330 | Fax: 330-869-9008  
www.knrlegal.com | Outside Ohio: 800-978-9007

Facebook | Twitter | Instagram | LinkedIn | YouTube

This is a privileged and confidential communication. If you are not the intended recipient, you must: (1) notify the sender of the error; (2) destroy this communication entirely, including deletion of all associated attachment files from all individual and network storage devices; and (3) refrain from copying or disseminating this communication by any means.

Exhibit 1

**W. Jack Meola**

---

**From:** W. Jack Meola  
**Sent:** Monday, August 29, 2022 12:35 PM  
**To:** 'Javier.SotoArocho@usps.gov'  
**Subject:** RE: RE: [EXTERNAL] FW: 440-21-00522452A

Good day,

I am following to determine if there will be any reply to the August 16, 2022 request for a status concerning the evaluation of our client's claim.

If we receive no reply to this inquiry by noon EST on September 9, 2022, we will consider our client's claim as denied, the adjudication deadline having expired on August 14, 2022. At that time, suit will be filed by our client.

Thank you for your prompt attention.

Jack Meola

---

**From:** W. Jack Meola <>  
**Sent:** Tuesday, August 16, 2022 12:09 PM  
**To:** 'Javier.SotoArocho@usps.gov' <Javier.SotoArocho@usps.gov>  
**Subject:** FW: RE: [EXTERNAL] FW: 440-21-00522452A

Good afternoon,

Please be advised that I have assumed responsibility for this matter within our firm. Please direct all future communications to my attention.

As the adjudication deadline was August 14, 2022 as noted below, I am following to determine if the evaluation has been completed.

Thank you for your consideration.

Jack Meola

---

**From:** Melody C. Montague <[mmontague@knrlegal.com](mailto:mmontague@knrlegal.com)>  
**Sent:** Tuesday, August 16, 2022 12:02 PM  
**To:** W. Jack Meola <[wjmeola@knrlegal.com](mailto:wjmeola@knrlegal.com)>  
**Subject:** RE: [EXTERNAL] FW: 440-21-00522452A

**From:** Anthony D. Hall  
**Sent:** Tuesday, April 5, 2022 2:54 PM  
**To:** 'Soto Arocho, Javier - St Louis, MO' <[Javier.SotoArocho@usps.gov](mailto:Javier.SotoArocho@usps.gov)>  
**Cc:** Jessica L. Ferencz <[jferencz@knrlegal.com](mailto:jferencz@knrlegal.com)>  
**Subject:** RE: [EXTERNAL] FW: 440-21-00522452A

Thank you, Javier!

I look forward to hearing back from you once you've completed your review.

Exhibit 2

From: Soto Arocho, Javier - St Louis, MO <[Javier.SotoArocho@usps.gov](mailto:Javier.SotoArocho@usps.gov)>  
Sent: Tuesday, April 5, 2022 2:51 PM  
To: Anthony D. Hall <[AHall@knrlegal.com](mailto:AHall@knrlegal.com)>  
Cc: Jessica L. Ferencz <[jferencz@knrlegal.com](mailto:jferencz@knrlegal.com)>  
Subject: RE: [EXTERNAL] FW: 440-21-00522452A

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

I received the demand packet. We have an adjudication deadline of August, 14, 2022. It will probably take me most of the time to get to the claim as we are backed up at the moment. If you have any updated meds or other documents you can email them to me. The only items we cant accept via email is SF95's amended SF95's and requests for reconsideration. Those need to be mailed to my office.

Javier Soto-Arocho | Tort Claims Examiner/Adjudicator  
United States Postal Service | General Law Service Center | National Tort Center  
1720 Market Street, Room 2400, St. Louis, Missouri 63155-9948  
T: 314.345.5868 | F: 314.345.5893

United States Department of Justice regulations and United States Postal Service regulations do not permit acceptance of electronically mailed tort claims and/or tort claim amendments, but rather a tort claim and/or tort claim amendment must be mailed to the Postal Service and exhibit an original inked signature.

Confidentiality Notice: This e-mail and any attachments contain information intended solely for the use of the named recipient or recipients. This e-mail may contain attorney-client privileged communications or attorney work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

From: Anthony D. Hall <[AHall@knrlegal.com](mailto:AHall@knrlegal.com)>  
Sent: Monday, April 4, 2022 2:45 PM  
To: Soto Arocho, Javier - St Louis, MO <[Javier.SotoArocho@usps.gov](mailto:Javier.SotoArocho@usps.gov)>  
Cc: Jessica L. Ferencz <[jferencz@knrlegal.com](mailto:jferencz@knrlegal.com)>  
Subject: [EXTERNAL] FW: 440-21-00522452A

CAUTION: This email originated from outside USPS. STOP and CONSIDER before responding, clicking on links, or opening attachments.

Javier,

I apologize, I had the wrong claim number. It appears the claim number is NT202216703. Did you receive our demand?

Thank you!

Anthony D. Hall | Managing Attorney  
Kisling, Nestico & Redick, LLC



4853 Monroe St., Bldg B. Ste 3, Toledo, OH 43623  
Main: 419-324-8205 | Fax: 330-869-9008  
[www.knrlegal.com](http://www.knrlegal.com) | Outside Ohio: 800-978-9007

Facebook | Twitter | Instagram | LinkedIn | YouTube

This is a privileged and confidential communication. If you are not the intended recipient, you must: (1) notify the sender of the error; (2) destroy this communication entirely, including deletion of all associated attachment files from all individual and network storage devices; and (3) refrain from copying or disseminating this communication by any means.

From: Anthony D. Hall  
Sent: Monday, April 4, 2022 10:58 AM  
To: 'Javier.SotoArocho@usps.gov' <[Javier.SotoArocho@usps.gov](mailto:Javier.SotoArocho@usps.gov)>  
Subject: 440-21-00522452A

Good morning, Javier!

I represent Mr. Robert Santy for an auto accident that occurred with a USPS truck on August 26, 2021. We sent over the 95 Form in February. However, I see now that we never obtained any adjuster information. Is there any chance you could let me know who is working on this claim, so I can get the demand to the right person?

I tried calling, but the number I was given had a voicemail option only.

Thank you in advance for your time and attention to this matter.

Best,

Anthony Hall



**Melody C. Montague | Litigation Paralegal III**  
**Kisling, Nestico & Redick, LLC**  
22 E. McKinley Way, Ste A, Poland, OH 44514  
Main: 330-729-1090 | Fax: 330-869-9008  
[www.knrlegal.com](http://www.knrlegal.com) | Outside Ohio: 800-978-9007

Facebook | Twitter | Instagram | LinkedIn | YouTube

*This is a privileged and confidential communication. If you are not the intended recipient, you must: (1) notify the sender of the error; (2) destroy this communication entirely, including deletion of all associated attachment files from all individual and network storage devices; and (3) refrain from copying or disseminating this communication by any means.*